

### **REMARKS**

Prior to entry of this amendment, claims 4-11, 17-31 and 35-46 are currently pending in the subject application. Claim 4 is the sole independent claim.

Applicants appreciate the Examiner's acknowledgement of applicants' claim for foreign priority and receipt of a certified copy of the priority document.

Applicants further appreciate the Examiner's acceptance of the drawings filed on January 23, 2004.

Applicants further appreciate the Examiner's consideration of applicants Information Disclosure Statement filed January 23, 2004.

Claims 4-11, 17-31 and 35-46 are presented to the Examiner for further prosecution on the merits.

#### **A. Introduction**

In the outstanding Office action, the Examiner objected to the specification, rejected claims 17 and 35 under 35 U.S.C. §112, second paragraph, as being indefinite, and rejected claims 4-11, 17-31 and 35-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 20 of U.S. Patent 6,461,911 to Ahn et al. ("the Ahn et al. reference").

#### **B. Asserted Objection to the Specification**

In the outstanding Office action, the Examiner objected to the specification as not supporting the language in claims 4, 27 and 35. This objection is respectfully traversed for at least the reasons set forth below.

Regarding claim 4, it is respectfully submitted that the lower layer may be the ILD layer 210 in FIG. 2F, the lower oxide layer 310 of FIG. 3E or the ILD layer 410 in FIG. 4F, and the

upper ILD layer may be the ILD layer 240 in FIG. 2F, the ILD layer 320 of FIG. 3E or the ILD layer 440 in FIG. 4F. The lower ILD layer is not recited in claim 4. Claim 27 has been amended as suggested by the Examiner. Regarding claim 35, it is respectfully submitted that the intermediate ILD layer may be the ILD layer 220 in FIG. 2F or the ILD layer 420 in FIG. 4F. Claims 4 and 35 have also been amended in order to clarify these relationships. Therefore, it is respectfully submitted that all elements of claims 4, 27 and 35 are clearly supported, and it is respectfully requested that this objection be withdrawn.

C. Asserted Indefiniteness Rejection of Claims 17-35

In the outstanding Office action, the Examiner rejected claims 17 and 35 under the second paragraph of 35 U.S.C. §112 as being indefinite. It is respectfully submitted that the first buried contact pads are different from the first direct contact pad, as can be seen, for example, in FIG. 2F, in which the lower ILD layer 210 has both buried contact pads 221 and direct contact pads 222. Therefore, it is respectfully submitted that this language is accurate, and it is respectfully requested that this rejection be withdrawn.

D. Asserted Double-Patenting Rejection of Claims 4-11, 17-31 and 35-45

In the outstanding Office action, the Examiner rejected claims 4-11, 17-31 and 35-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 20 of the Ahn et al. reference. A Terminal Disclaimer is being concurrently filed with this response to obviate this double patenting rejection. Therefore, it is respectfully submitted that this rejection be withdrawn.

E. Conclusion

Applicants respectfully maintain that claims 4-11, 17-31 and 35-46 are in condition for allowance, and a notice to such effect is respectfully requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

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PETITION and  
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying papers may also be charged to Deposit Account No. 50-1645.